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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,658	12/05/2003	Istvan Szelenyi	034082-001	8943

21839 7590 05/23/2006

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
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EXAMINER

KWON, BRIAN YONG S

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species: (i) neuralgia pain, (ii) arthritis and arthrosis pain, (iii) chronic or episodic tension pain, (iv) pain associated with lower spastic paraparesis syndrome, (v) pain associated with “lower paraspasm, transverse myelitis, multiple sclerosis, heritable inferior spastic paraplegia (Stuempel paraplegia), disturbances of the spinal blood circulation or cerebral paralysis involving lower spastic paresis”, (vi) “pain associated with tetraparesis, in connection with cervical myelopathy, cervical brachialgia or vertebral dysplasia” and (vii) pain associated with Parkinson’s disease. The species are independent or distinct because each of the above mentioned species is drawn to the treatment of totally different conditions and would appear to seek results that differ depending on what diseases or conditions is being treated. For instance, neuralgia pain differs from nociceptive pain such as arthritis and arthrosis pain in terms of duration, characteristics, underlying mechanisms and treatment (The Journal of Neuroscience, March 2, 2005, 25(9):2405-2412; Bennett G. J. (1994a) In: Textbook of Pain (Ed. Wall P D, Melzack R) Churchill Livingstone, London 3rd edn, 201).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 13-17 and 25-26 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. A telephone call was made to Heidi Reese on April 20, 2006 to request an oral election to the above restriction requirement, but no response has been received.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

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currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax number for this Group is (571) 273-8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Brian Kwon
Patent Examiner
AU 1614

A handwritten signature in black ink, appearing to be 'B. Kwon', followed by a long horizontal line extending to the right.